

Senate Bill No. 1462

CHAPTER 145

An act to amend Sections 791.15 and 791.16 of the Insurance Code, relating to insurance.

[Approved by Governor August 22, 2006. Filed with
Secretary of State August 22, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1462, Cox. Insurance information and privacy protection: service of process.

Existing law provides for the regulation of insurers by the Insurance Commissioner. Existing law, the Insurance Information and Privacy Protection Act, regulates the disclosure of information gathered in connection with insurance transactions by insurance institutions, agents, or insurance-support organizations. Existing law requires the commissioner, when he or she has reason to believe that an insurance institution, agent, or insurance-support organization is violating the act, to issue and serve a statement of charges and notice of hearing. Existing law provides that an insurance-support organization transacting business outside the state that has an effect on a person residing in this state is deemed to have appointed the commissioner to accept service of process on its behalf, if the commissioner causes a copy of the service to be immediately mailed by registered mail to the insurance-support organization at its last known principal place of business.

This bill would authorize the commissioner to complete service of process or to provide the copy of service by using a third party mailing service with tracking capability as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 791.15 of the Insurance Code is amended to read:

791.15. (a) Whenever the commissioner has reason to believe that an insurance institution, agent or insurance-support organization has been or is engaged in conduct in this state which violates this article, or if the commissioner believes that an insurance-support organization has been or is engaged in conduct outside this state which has an effect on a person residing in this state and which violates this article, the commissioner shall issue and serve upon such insurance institution, agent or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than 30 days after the date of service.

(b) At the time and place fixed for such hearing the insurance institution, agent or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the commissioner shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

(c) At any hearing conducted pursuant to this section the commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The commissioner shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which are relevant to the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the commissioner. If no stenographic record is made and if judicial review is sought, the commissioner shall prepare a statement of the evidence for use on review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to administrative proceedings conducted under the laws of this state.

(d) Statements of charges, notice, orders and other processes of the commissioner under this article may be served by anyone duly authorized to act on behalf of the commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail or by a mailing service offered by a third party mailing service with tracking capability that is not more expensive than registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this article have been allegedly violated. A verified return setting forth the manner of service, the return postcard receipt in the case of registered mail, or signed receipt documentation, shall be sufficient proof of service.

SEC. 2. Section 791.16 of the Insurance Code is amended to read:

791.16. For the purpose of this article, an insurance-support organization transacting business outside this state that has an effect on a person residing in this state shall be deemed to have appointed the commissioner to accept service of process on its behalf, provided the commissioner causes a copy of the service to be mailed immediately by registered mail, or by a mailing service offered by a third party mailing service with tracking capability that is not more expensive than registered mail, to the insurance-support organization at its last known principal place of business. The return postcard receipt or signed receipt documentation for the mailing shall be sufficient proof that the same was properly mailed by the commissioner.